

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BARRY RENFOLD COOLEY,

Defendant.

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CASE NO. 8:02CR353

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's motion filed under Federal Rule of Civil Procedure 60(b)(5) and (6) (Filing No. 733).

The Defendant, Barry Renfold Cooley, requests reconsideration of his life sentence. He argues that the Court erred in denying his motions filed under § 2255 and for reduction of his sentence pursuant to Amendment 706 to the sentencing guidelines. The Eighth Circuit Court of Appeals affirmed both decisions.

Cooley may not relitigate his § 2255 motion through Rule 60(b) in what is essentially a successive motion filed without the Eighth Circuit's approval. *United States v. Patton*, 309 F.3d 1093, 1094 (8th Cir. 2002).

IT IS ORDERED:

1. The motion filed under Federal Rule of Civil Procedure 60(b)(5) and (6) (Filing No. 733) is denied; and
2. The Clerk is directed to mail a copy of this memorandum and order to the Defendant at his last known address.

DATED this 28th day of December, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge